

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA**

AT BECKLEY

LACOSTA STEELE,

Plaintiff,

v.

CIVIL ACTION NO. 5:22-cv-00445

SGT. MINOR,
C/O KITTLE,
CO GRANT,
ADMIN STAFF,
MEDICAL STAFF, and
ROOM/CELL PLACEMENT WARDEN,

Defendants.

ORDER

Pending is Plaintiff Lacosta Steele’s Letter-Form Motion to Dismiss and Request for Return of Filing Fee [Doc. 48], filed September 6, 2024. This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation (“PF&R”). Magistrate Judge Aboulhosn filed his PF&R on September 17, 2024. Magistrate Judge Aboulhosn recommended that the Court grant Plaintiff’s Motion, deny as moot the Defendants’ pending Motions to Dismiss [Docs. 31, 34], and dismiss this action.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*” (emphasis

added)). Failure to file timely objections constitutes a waiver of de novo review and the Plaintiff's right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically "appeal a magistrate judge's findings that were not objected to below, as § 636(b) doesn't require de novo review absent objection."); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on October 4, 2024. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 50**], **DENIES AS MOOT** Defendant CO Grant and Sgt. Minor's Motion to Dismiss [**Doc. 31**], **DENIES AS MOOT** Defendant Warden's Motion to Dismiss [**Doc. 34**], and **ORDERS** the Plaintiff's Final Amended Complaint [**Doc. 20**] be **DISMISSED without prejudice** and that this matter be **REMOVED** from the Court's docket.

Lastly, considering the Plaintiff's representations that she was unaware she was initiating both an individual action and a class action, her *pro se* status, and her lack of legal knowledge, the Court **ORDERS** the Plaintiff's request for the return of her partial filing fee (\$302.10)¹ be **GRANTED**. The Court **DIRECTS** the Clerk to return the Plaintiff's partial filing fee, and further **DIRECTS** that no additional payments of the previously ordered \$350.00 filing fee be collected in this matter.

¹ As of the date of this writing, the Plaintiff has made six payments towards the \$350.00 filing fee, totaling \$302.10. [*See* Docs. 40, 42, 44, 45, 47, 49].

The Court **DIRECTS** the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: October 11, 2024



A handwritten signature in black ink that reads "Frank W. Volk". The signature is written in a cursive, flowing style.

Frank W. Volk
Chief United States District Judge